



USE OF BODY WORN CAMERAS (BWC)



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I. PURPOSE

To establish policies and procedures for the proper and lawful operations of Body Worn Cameras (BWC) during certain interactions between Members of Service and the public.

II. POLICY

The Body Worn Camera (BWC) policy provides Members of Service with guidelines on recording, storing, retaining, releasing and maintaining data to Document Police Action. It will also assist with gathering evidence, promoting transparency and providing an objective record of the incident.

This policy does not govern the Department's recording devices used in covert undercover operations or limit the use of in-car audio/video recording systems.



All members below the rank of Captain working patrol duties in uniform or plainclothes are required to wear and use a BWC unless directed by a Supervisor.

Investigative Services Bureau shall be guided by their internal policy with regards to BWC, except when Members are working in uniform or accept overtime patrol in uniform or plainclothes.

Members who borrow BWC loaner units from the District must return the loaner units at the end of the tour.

All BWC recordings made by Members are the exclusive property of the Department and constitute as official records of the Department. Members shall have no expectation of privacy or ownership interest in the content of any recordings.

All Department issued BWCs containing media, data, images, video, audio and metadata it recorded and produced shall not be viewed, copied, released, disclosed or disseminated in any form or manner outside the parameters of this policy. With the exception of the Department's adherence to the New York State Freedom of Information Law (FOIL) or a valid subpoena and court order.

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Failure to adhere to any of the BWC policies and procedures may result in disciplinary action and may include termination from the Department.

III. DEFINITIONS

Body Worn Camera (BWC)

A small video camera mounted on the Member's uniform that can be activated to record video and audio of law enforcement encounters with the public. All recordings are stamped with time, date and location.

The term "BWC" does not include the mobile video recording device mounted inside a police vehicle (e.g., a dash cam) or any form of electronic recording device used in an undercover capacity.

Activation

Any process that causes the BWC to record audio and video data. Activation occurs by switching from Pre-Event Buffering Mode to Event Mode either manually by double tapping the event button or automatically through Axon Signal Technology Bluetooth feature. (Taser T7 Signal and Axon Signal Vehicle). Activation can only occur when the BWC is already powered on.

Deactivation

The process that causes the BWC to stop recording. This will return the BWC to Pre-Event Buffering Mode.

Event Mode

The BWC is recording both video and audio because of activation.

Stealth Mode

Specific configuration where LED lights, sounds (audio prompts), and vibrations (haptic feedback) are turned off while in Event Mode.



BWC Recordings

All-encompassing terms include audio, video, images, data, and metadata recordings that were captured and uploaded by the BWC.

BWC Recordings Tagging

The process of ID'ing and categorizing the BWC recordings in the Digital Evidence Management System (DEMS).

- ID – Linking the BWC recording with the Call Number or Case Number provided by the Emergency Operations Center.

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- Categorize – Labelling the BWC recording with the job type (e.g., Aided, Arrest, Calls for Service, etc.).

Evidentiary Data

Refers to the data recorded by the BWC of an incident or encounter that could prove useful for investigative purposes.

Non-Evidentiary Data

Refers to the data recorded by the BWC that does not have value to aid an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the Members might perform while on duty.

Digital Evidence Management System (DEMS)

A cloud-based storage system used to store all BWC recordings. The Department's authorized storage system location is [REDACTED] unless directed by the Chief of Administrative Services Bureau or his /her designee to store specific recordings to another authorized location.

Evidence Transfer Manager (ETM)

A docking, charging and data transfer unit located at each District. Docking the BWC to the ETM shall be the primary method in transferring the BWC recordings to the DEMS.

Priority Evidence Upload



A BWC feature that can be used to upload BWC recordings wirelessly using the 4G LTE broadband standards to the Digital Evidence Management System (DEMS) without using the ETM. The recordings must not exceed more than 60 minutes in length to successfully upload in DEMS. This feature has limited capabilities and shall be used when necessary. To learn more about this feature go to <https://myaxon.com/s/article/Axon-Body-3-Priority-Evidence-Upload>.

Police Action

Any police service, operations, as well as law enforcement or investigative activity conducted in furtherance of official duties. Police action includes, but not limited to, responding to calls for service, addressing quality of life conditions, handling pick-up assignments, and any self-initiated investigative or enforcement actions such as witness canvasses, vehicle stops and investigative encounters.

The following are not considered Police Action:

- Members' routine consensual conversations with the public carried out as part of community engagement.
- Members performing administrative duties.

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- Members performing non-law enforcement functions that include, but are not limited to, routine activities within Department facilities (e.g., rollcall, etc.), attending meetings, and training.

MTA Facility

MTA Facility means properties that are owned or leased by the Metropolitan Transportation Authority that are maintained as a safe and welcoming environment for all MTA employees, MTA contractors, visitors and customers. It includes, but is not limited to, commuter trains, subways, buses, vehicles, crossings, tracks, shops, right-of-way, yards, stations, platforms, terminals, buildings, offices, parking areas, bridges, tunnels and real estate.

Critical Incident

An accidental or natural disaster, civil disorder, terrorist action or similar action. Refer to Section 15-04 – Critical Incidents / Emergency Action.

Train Accident

Any incident involving a locomotive, engine, or train component that results in injury, death, or property damage. The incident may involve a person, vehicle, another train, or other object. Refer to section 15-01 – Train Accidents.

Axon Performance

A dashboard within the DEMS that streamlines the review process and enables Supervisors to give training and feedback to the Members. In addition, it allows the Department to see the baseline camera activation rates of all members.



Officer Clarification

A feature in Axon Performance where Members can provide more information about the call for service without an attached BWC recording. To enter more information, click the “Add Clarification” button (e.g., I did not arrive on scene/cancelled).

IV. PROCEDURE

A. Body Worn Camera Equipment

1. Uniformed Members shall only use Department issued BWC while on duty. The use of any non-Department issued recording device is strictly prohibited.
2. The BWC shall be worn in a manner that maximizes the camera’s performance as specified in training to accurately record the Member’s activity.

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3. All Members shall receive BWC training on activation, deactivation, upload procedures, proper maintenance, and Department's policies and procedures.
4. Members shall not repair or make modifications to the BWCs, ETMs, and mounting hardware.



B. Uniformed Members

1. Members will be held responsible for the BWC issued to them and are expected to have it in their possession during patrol duties in uniform or plainclothes. Members shall use the BWC as trained to guarantee proper operation and compliance with the policy.
2. Members shall visually and physically inspect their BWCs at the beginning of their tour to ensure it is fully operational. The inspection shall include, but not be limited to:

- a. The battery status bar is at 100% (Battery life is 12 + hours at 100%)

Note: If the member deems the battery does not have sufficient power for the tour, he/she may request a loaner unit from the Supervisor.

- b. Check memory storage to ensure it has sufficient space to complete the entire tour.
 - c. Ensure that there is no error message on the display screen.
 - d. Members shall turn off the BWC while inside the Department Facility except when activation is required in accordance with the BWC policy after completing the inspection.
 - e. Ensure the BWC is mounted at the outermost garment of the uniform or other approved areas.
 - f. Document the inspection in the Digital Memorandum Book.
 - g. Notify your immediate supervisor of any damage or malfunction. Prepare a BWC Trouble Report using the application on the MTAPD Intranet.
3. **Members shall Power on the BWC and set in the Pre-Event Buffering Mode upon exiting the Department facility. The BWC will remain in Pre-Event Buffering Mode throughout their tour of duty except when it is required to be turned off or activated for recording in accordance with the BWC policy.**

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4. Members issued BWCs have unique serial numbers in addition to internal tracking identification numbers. Therefore, it is important for Members to use the BWC issued specifically to them unless otherwise authorized by a Supervisor.
5. Members shall turn off their BWCs before placing them in the ETM for charging or uploading recordings to the DEMS.
6. Members shall dock their BWC at the ETM to upload and tag the recordings in the DEMS within the following period:
 - a. BWC recordings relating to an arrest of a subject(s) shall be accomplished during arrest processing. Refer to Section 11-22- Discovery Compliance.
 - b. BWC relating to crime investigation, critical incident, or train accidents shall be accomplished upon reporting back to the district.
 - c. Other BWC recordings shall be completed before the end of the tour.

Note: Absent of exigent circumstance to upload and tag the recordings in the DEMS within the prescribed period, Members may request from their Supervisor to upload and tag the recordings at the beginning of the next scheduled tour, except if the next scheduled tour is after a day(s) off.

7. If necessary, members may upload the BWC recordings in the DEMS using the Priority Evidence Upload feature while still out in the field or before reporting back to the district.

Note: Members who upload the recordings through Priority Evidence Upload are responsible for ensuring their recordings were successfully uploaded and tagged in the DEMS.

8. Members who activated their BWC as required by the Department BWC policy and received a Call Number or Case Number from Emergency Operations Center (EOC) shall tag their BWC recordings at DEMS with the corresponding job type category and Call Number or Case Number.
9. During arrest processing, Members shall comply with the arrest procedures in accordance with section 11-04 "Arrests" and shall:
 - a. Identify all BWC recordings associated with the arrest and, if known, all other BWC recordings that can enhance the arrest case.
 - b. Ensure all BWC recordings are properly tagged.



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Note: When an individual is under arrest or in custody, inquire if he/she needs any medical assistance and ensure that it is recorded in the BWC. Request EMS to the scene as needed.

10. Members shall notify the following when necessary:
 - a. The Discovery Compliance Unit
 - i. When they have knowledge that the incident relating to an arrest, prosecution, or other criminal matters subject to court litigation was recorded by the BWC.
 - ii. When the incident he/she was handling was recorded by other Law Enforcement agencies' BWCs, and if possible, include the Officer's name and shield number.
 - b. The Investigative Services Bureau when incidents under investigation were recorded by the BWCs.
11. Members using a loaner unit and made BWC recordings shall immediately notify his/her Supervisor in order for the recordings to be reassigned to him/her.
12. Members who are out of service (e.g., military leave, paternity leave, sick leave, etc.) for more than one (1) year may request a refresher training in using the BWC at [REDACTED]
13. Members shall log into the DEMS and review their Axon Performance dashboard by the end of their tour to ensure the accuracy of their BWC metrics. These include Activation Rate, ID Rate and Categorization Rate. In addition, if there is no BWC recording attached to the call for service that the Member responded to, the Member can click **"Add Clarification"** in order to provide more information about the call for service. The Integrated Communications Unit (ICU) will perform quarterly audits of the responses provided by the Members.

C. Lost, Stolen, or Damaged BWC and ETM

1. If during the inspection, the Member determines that his/her issued BWC is damaged or malfunctioning, the Member shall:
 - a. Notify his/her Supervisor
 - b. Request a loaner unit from the Supervisor. If a loaner unit is not available, the Member must document it in the Digital Memorandum book.
 - c. Prepare a BWC Trouble Report on the MTAPD Intranet in order to receive a replacement unit from the Integrated Communications Unit (ICU).

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2. If the District ETM is damaged or malfunctioning, the Member shall:
 - a. Log in to Service Now and click “Report an Incident” or call MTA IT Help Desk at (646) 252-8888 to report the incident.
 - b. Notify his/her Supervisor.
 - c. Prepare a BWC Trouble Report on the MTAPD Intranet.
3. If the Member issued BWC was lost or stolen, notify and submit the following to the Supervisor:
 - a. Memorandum (Form 17) detailing the circumstances
 - b. Request a loaner unit from the Supervisor. If a loaner unit is not available, document it in the Digital Memorandum Book.
 - c. Prepare BWC Trouble Report on the MTAPD Intranet in order to receive a replacement unit from the Integrated Communications Unit (ICU).

D. Activation of BWC Recording

1. Members shall activate their BWC to Event Mode prior to engaging in Police Action. **The recording shall begin prior to arrival at the incident location or prior to commencing any self-initiated Police Action.**



Note: RMP operators may activate their BWC immediately after arrival at the incident location to ensure the safe operation of the RMP.

2. In the event of unanticipated or exigent circumstances, Members shall activate their BWC as soon as it is feasible or safe. Preserving human life, safety, and proper tactics take precedence over activating the BWC manually.
3. The Department’s BWC are equipped with Axon Signal Technology. When within range, the Member’s BWC can automatically go from Pre-Event Mode to Event Mode. Any Law Enforcement Agencies with this type of technology can trigger an activation.
4. When a Member with BWC is engaged in Police Action and the situation permits, the Member shall verbally state to the subject(s) that the interaction is being recorded unless such notification could compromise safety or impeded an investigation.
 - a. Suggested notification(s) include: “Sir/Ma’am I am wearing a body camera, and this interaction is being recorded.”
 - b. Consent is not required to start/continue recording.

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5. Members shall record the following Police Action which includes, but is not limited to, the following upon engaging in or assisting with:
 - a. Possible crime in progress
 - b. Critical incidents
 - c. Train accidents
 - d. Calls for service
 - e. Executing Search Warrants
 - f. Arrest
 - g. Transporting of prisoners
 - h. Domestic Incidents (Refer to Section G)
 - i. Spit Hood application
 - j. Arrest processing of prisoners
 - k. Taking statements (e.g., suspects, witness, and victims)
 - l. Conducting all interviews (e.g., suspect, witness, and victims)
 - m. Search of prisoner(s) and properties
 - n. Aided cases
 - o. Interaction with Emotionally Disturbed Persons (EDP)
 - p. Confrontational/adversarial citizen contacts
 - q. Theft of service
 - r. MTA Facility ejections (see #8 below for exception)
 - s. Issuance of Summonses (except for parking violations of unoccupied vehicles)
 - t. Any Use of Force Incident
 - u. Any incident involving a weapon
 - v. Disorderly conduct of a person or group
 - w. Vehicle/Foot Pursuit
 - x. Motor Vehicle Stops (VTL Enforcement)
 - y. Motorist Assist (e.g., Motor Vehicle Accident and disabled vehicle)
 - z. Any incident not prohibited by this policy which may be unpredictable or dangerous
 - aa. Any incident that was determined, based on experience and training, should be documented by the BWC.

6. To ensure the integrity of the recording, once the BWC is activated for the purpose of documenting Police Action, it should remain activated until the interaction with the public has concluded. Except in situation where the recordings are prohibited by Department policy (Refer to Section "H" Prohibited Recordings) or as set forth by the law of NYS or CT. Police Action concludes when Members terminate their contact with the public.

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7. It is not necessary to record daily interactions with the commuters that are commonly asking for directions and general information unless the situation escalates and meets the criteria specified in this policy.
8. Members who are conducting a supervised **“preplanned operation”** in the MTA subway system (e.g., End-of-Line, etc.) and eject or remove a subject(s) from the subway system, shall activate their BWC only if physical direction or force greater than physical direction is used on the subject(s).

Note: The Use of Force form does not need to be prepared for physical direction or handcuffing unless the force used meets the criteria specified in section 10-02 – Reporting Use of Force.

9. Members may active their BWC any time deemed necessary while conducting Police Action or when directed by a supervisor. Whenever BWC is activated, the primary contact Member shall request a Call Number or Case Number form Emergency Operations Center (EOC) to be used for tagging the BWC recordings in DEMS.

E. Deactivation or Muting Audio of BWC

1. Members may consider the requests to deactivate the BWC if it is determined that based upon the circumstances, the investigations could be significantly hampered if the recordings were to continue (e.g., undercover operations which may reveal the identity of the Members and Criminal Informants (Cis) involved).
2. Members may deactivate or mute the audio of a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., “I am now turning off or muting my BWC to discuss investigative strategy with my Supervisor.”).
3. Members shall record and narrate through their BWC the reason prior to deactivation or muting. They shall also document the reason for deactivation or muting of their BWC in the Department Incident Report and Digital Memorandum Book.
4. If possible, Members shall consult with a Supervisor before deactivating or muting their BWC.

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5. Members who are entering or are inside the Districts or any reporting location shall turn off their BWC except when the activation of the BWC is required in accordance with the BWC policy.

F. Civilian Request to Stop Recording

1. Members have no obligation to grant a civilian request to stop recording. If the recording is pursuant to an investigation, arrest, lawful search, and the circumstances clearly dictate that continued recording is necessary or prudent, then Members shall continue the recording.
2. If a request to deactivate the BWC is declined, the Members shall immediately inform the civilian of that decision and shall notify his/her Supervisor. It is prohibited for Members to mislead the civilian into believing that the BWC has been deactivated unless authorized by the District Attorney or State's Attorney (CT) to make a covert recording.
3. When a civilian, other than an arrestee, is seeking medical assistance and requesting the BWC to be deactivated, the Member's decision shall be based on the privacy interests of the aided of the civilian requesting the deactivation.
4. The civilian request to deactivate the BWC shall follow these guidelines:
 - a. The civilian request and the Member's response shall be recorded through their BWC.
 - b. If the request to deactivate was granted, Members shall record and narrate the reason prior to deactivation and shall notify their Supervisor as soon as possible (e.g., "I am now turning off my BWC because of a civilian request. The reason for granting the request is...").
 - c. The BWC shall be reactivated when the circumstances justifying the deactivation no longer exist.
5. It is critical that all circumstances surrounding the civilian's request to "deactivate the BWC" be documented in the Department Incident Report and Digital Memorandum Book.

G. Domestic Incidents

1. Members shall consider the request from the victims of domestic violence not to be recorded in non-confrontational situations. In addition, the Members should

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take into consideration that the use of BWC during investigation may impact the victim's willingness to provide information.

Note: If the request of the victim cannot be fulfilled, notify the Supervisor and explain the reason to the victim.

2. Any request to deactivate the BWC recordings by victims of domestic violence shall:
 - a. be recorded on the BWC prior to deactivation
 - b. documented in the Digital Memo Book
 - c. documented in the Department Incident Report

H. Prohibited BWC Recordings

1. Members shall not intentionally activate the BWC for any of the following:
 - a. Private communications with other Members or other Law Enforcement Agencies Officers, except during performance of duties.
 - b. Performance of administrative duties or non-enforcement functions.
 - c. During Department rollcalls, meetings, trainings, and other routine functions.
 - d. Inside Department's facilities (e.g., locker rooms, rest rooms, muster room, break room, and offices), except, Detention/Booking areas during arrest processing of prisoners.
 - e. An encounter with Undercover Members, other Law Enforcement Agencies Undercover Officers, and Confidential Informants (CIs).
 - f. Interviewing the victim of a sex crime as soon as the nature of the offense becomes apparent.
 - g. Strip and Body Cavity Searches.
 - h. Whenever possible, Members shall avoid recording the public that are nude or with exposed private body parts unless considerations are outweighed by legitimate Police Action.
 - i. When present in a court facility as per 22 NYCRR 29.1, except for the immediate lodging of a prisoner through a "sally port" access to a secure holding area.
 - j. Inside a medical or mental healthcare facility, unless in furtherance of Police Action (e.g., aided, EDP, victim statement, etc.).
 - k. When an explosive device may be present (e.g., unattended packages, suspicious packages, suspicious devices) or during explosive detection screening.
 - l. Any private conversation to which the Member is not a party of.

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- m. Any telephonic conversation unless specifically authorized by law while in performance of their official duties.
- 2. Notify your immediate Supervisor and Integrated Communications Unit (ICU) at [REDACTED] if a prohibited event as described above was recorded and make a Digital Memorandum Book entry.
- 3. Members entering the Department, or any MTA facility equipped with an electronic access control system must cover their BWC lens to prevent the inadvertent recording of the access code. The access code is considered confidential information by the Department.

I. Demonstrations, Protests, Civil Disobedience and ICTF

- 1. During demonstrations, protests and civil disobedience, Members shall record only if engaged in Police Action (e.g., probable cause for arrest or reasonable suspicion of criminal activity) or as directed by the Supervisor.
- 2. The Interagency Counterterrorism Task Force (ICTF) remains solely responsible for documenting protests, demonstrations, and political events by means of photos and/or video.

J. Required Written Documentation for BWC Recordings

- 1. BWC recording shall not be utilized as a replacement for any written reports. Members shall not simply write in the Department Incident Report narrative and/or Investigative Report “refer to the recording” in lieu of a detailed written account of the incident.
- 2. Whenever practical, Members should watch the BWC recordings prior to writing a narrative in the Department Incident Report and/or Investigative Report of any incidents recorded by a BWC (refer to Section “K” Restrictions of Access, Use and Dissemination).
- 3. Members shall document in the Department Incident Report and Investigative Report if video(s) was recorded by BWC during any Police Action.
- 4. Members who fail to activate the BWC during Police Action, or (intentionally or accidentally) deactivate the BWC recording during Police Action, or the BWC malfunctions during Police Action, and BWC recording is required in accordance



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with Department policy, shall include a brief explanation of the following in the Department Incident Report:

- a. Why the BWC recording was not made
- b. Why the BWC was deactivated
- c. Type of BWC malfunction

K. Restrictions of Access, Use and Dissemination

1. The access and use of stored BWC recording is permitted only:
 - a. When relevant to and in furtherance of a police investigation or prosecution.
 - b. When relevant to and in furtherance of an Internal Affairs investigation or an administrative investigation (Subject to the restrictions of Section “M” #9 and #10).
 - c. When relevant to and in furtherance of a Department review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct (Subject to the restrictions of Section “M” #9 and #10).
 - d. When relevant to and in furtherance of a Supervisor’s review of a Member’s actions as part of an assigned Department civilian complaint investigation (Subject to the restrictions of Section “M” #9 and #10).
 - e. To assist Members writing their Department Incident Report that was recorded by BWCs (Subject to the restrictions of Section “K” #2).
 - f. To comply with NY State’s discovery obligation to turn over the recording to the District Attorney.
 - g. To enhance Member and public safety by providing intelligence information in preparation for a warrant execution (e.g., providing information about the layout of premises to be searched), when such use is approved by the District Attorney (NY), State’s Attorney Office (CT), and/or their designee.
 - h. Any other specified official purpose where the District Attorney (NY) or the State’s Attorney Office (CT) provides in writing that a good and sufficient cause exists to authorize access to a particular BWC recording.
 - i. For administrative or training purposes by the Integrated Communications Unit (ICU) or Training Unit.
2. The viewing and accessing of BWC recordings by witnesses (Members or civilians) with regards to investigation of Member(s) Use of Force incident requires approval from the following:
 - a. District Attorney (NY)
 - b. State Attorney (CT)

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- c. MTA Inspector General overseeing the Member(s) Use of Force investigation.

Note: This will ensure the integrity of the investigation and will avoid possible contamination of a witness's personal recollection of events that could undermine his/her credibility.

3. When a Member is giving a formal statement about the Use of Force incident or subject to disciplinary investigation, in which BWC recordings are being considered as part of a review of the incident, the Member shall have the right to review such recordings in the presence of the Member's lawyer and/or PBA Representative. Furthermore, such Member shall have the right to review other Members' BWC recordings capturing his/her image or voice during the incident under review.
4. Disseminate associated BWC recordings regarding an arrest to the District Attorney (NY) and State's Attorney Office (CT) at the time of arrest.

L. Control and Management

1. The Chief of Administrative Services Bureau will serve as the BWC Video Evidence Administrator for the MTA Police Department as designated by the Chief of Police.
2. The Chief of Administrative Services Bureau or his/her designee shall be responsible for authorizing access to download BWC files.
3. The Integrated Communications Unit (ICU) shall be primarily responsible for storage, access, and dissemination of all video evidence associated with the BWC system for criminal prosecution and discovery material. The Integrated Communications Unit (ICU) shall:
 - a. Ensure BWC recordings are uploaded and stored in a timely manner in DEMS or other approved storage location.
 - b. Safeguard the BWC recordings that contain information and evidence that may be of value for case prosecution in any criminal or civil proceeding.
 - c. Ensure BWC recordings are maintained and transferred to portable media for authorized release are handled in accordance with Section 15 03 – Crime Scene, Physical Evidence, and Property Vouchering.
 - d. Maintain all BWC recordings at the DEMS until the recordings are authorized to be destroyed by law, statute, or other directive governing the record.

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- e. Ensure BWC recordings that are accessed, viewed, copied, disseminated, and deleted shall be documented in the note section of



Note: These are not to preclude the responsibilities of the Investigative Services Bureau (ISB) regarding their assigned cases and/or Patrol Supervisors at the time of defendant(s) arrest, to share all evidence within the DEMS with the appropriate District Attorney (NY) or State's Attorney Office (CT), as to not hinder prosecution or violate discovery laws.



4. The Records Section will handle the Freedom of Information Law (FOIL) request in accordance with the law and Department's procedures. Public request for BWC recordings based on FOIL shall:
 - a. Fill out a FOIL request application available at <https://new.mta.info/>.
 - b. Submit the application online or by mailing it to the address listed below:

FOIL Team
 MTA Legal Department
 2 Broadway, 4th Floor
 New York, NY 10004



Note: In legal considerations, the Department is required by law to disclose certain information and materials related to criminal and civil proceedings. The disclosure must be in accordance with the NYS CPL Article 245 Discovery, Rosario Rule, The Freedom of Information Law (FOIL), subpoenas, and court orders.

M. Supervisors

1. Supervisors shall ensure Members are equipped with their issued BWC and are using it throughout their tour in accordance with the policy.
2. Notify the Commanding Officer or Duty Captain anytime a Member becomes part of a potential or actual litigation involving a matter captured by a BWC.
3. Ensure Members have sufficient time at the beginning of their tour to retrieve their issued BWC from the ETM and complete the required inspections.

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4. District/Unit Supervisors shall log into DEMS at least once per tour and identify any untagged BWC recordings within his/her jurisdiction. He/she shall take the necessary corrective actions to properly tag the BWC recordings.
5. Ensure Members are provided time during their tour to upload their BWC recordings into the DEMS.
6. Conduct an immediate investigation when notified of a lost, stolen, damaged or malfunctioning BWC and ETM. The investigating Supervisor shall:
 - a. **For lost or stolen BWC:** Prepare an Investigative Report (Form 17) addressed to the Chief of Police. Prepare a BWC Trouble Report on the MTAPD Intranet. If a loaner unit is available in the District, issue it to the Member and indicate it in the BWC Trouble Report. Instruct the Member to submit a Memorandum about the circumstances, Document the Incident in the Department Incident Report and request the EOC to enter the appropriate ejustice article entry for the lost or stolen BWC.
 - b. **For damaged or malfunctioning BWC and ETM:** Prepare BWC Trouble Report on the MTAPD Intranet. If a BWC loaner unit is available in the District, issue it to the Member and indicate it in the BWC Trouble Report. Open a Service Now ticket for the ETM or call MTA IT Help Desk at (646) 252-8888 to report the incident.
7. Supervisors shall endorse the BWC Trouble Report submitted in the MTAPD Intranet by Members in their District/Unit.
8. Submit a Memorandum (Form 17) addressed to the District/Unit commanding Officer when a Member fails to record an incident or part of an incident or unintentionally makes a prohibited recording. Ensure the explanation of failure to make BWC recording or unintentional BWC recording is included in the Department Incident report.
9. Supervisors and the Office of Internal governance (OIG) may access the BWC recordings for administrative investigations. The scope of their review of the recordings shall be limited to the specific complaints/allegations and to the formal requests for administrative investigation against the Member(s).
10. If during the review, the Supervisor or the Office of Internal Governance (OIG) accidentally discovers BWC recordings of other incriminating actions not related to the incident they are currently investigating, they are required to have a valid reason or purpose for expanding the scope of their investigation.

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11. Prior to the fifteenth (15th) of each month, District/Unit Supervisors shall conduct random reviews of five (5) BWC recordings from the previous month that were randomly selected from among the BWC recording made by the Members that bid or assigned in the District/Unit. These monthly random video reviews are separate from the reviews pertaining to Use of Force complaints, civilian complaints, BWC reviews initiated by Members, random audits and periodic reviews directed by Chief of Administrative Services Bureau. The DEMS – Random Video Review feature shall be used to ensure the review process is fair and impartial. The Supervisor conducting the review shall choose at least one (1) of the criteria provided by the Department (e.g., Good Tactics, Professionalism, Late Activation, etc.). The following Supervisors shall randomly review the BWC recording of the Members in the District/Unit:

- a. Each Sergeant shall conduct five (5) Random Video Reviews of the BWC recordings made by the Police Officers who bid or assigned on his/her tour.



Note: If there is no Sergeant on a specific tour (e.g., retirement, transfer, etc.), the District/Unit Commanding Officer shall assign a Sergeant who bid or assigned in the District/Unit to conduct the BWC recording review of that specific tour.

- b. Each Lieutenant shall conduct five (5) Random Video Reviews of the BWC recordings made by the Sergeants who bid or assigned on his/her tour.

Note: Districts/Units that have only one (1) Lieutenant shall review all the Sergeants who bid or assigned in the District/Unit. If there is no Lieutenant on a specific tour (e.g., retirement, transfer, etc.), the District/Unit commanding Officer shall assign a Lieutenant who bid or assigned in the District/Unit to conduct the review of that specific tour. If there is no Lieutenant in the District/Unit, the Commanding Officer shall conduct the review.

- c. Each District/Unit Commanding Officer shall conduct five (5) Random Video Reviews of the BWC recordings made by Lieutenants who are assigned to the District/Unit.

12. Ensure the BWC recordings of Members requesting to upload and tag their recordings at the beginning of the next scheduled tour are not immediately needed for crime investigations, evidentiary, or discovery material. If the BWC recordings are needed immediately or the Member's next scheduled tour is after a day(s) off, the prescribed period to upload and tag the recordings shall be followed.

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13. BWC recording taken by a loaner unit shall be reassigned to the Member who used the loaner unit in the DEMS.



N. Supervisors – Firearms Discharges and Death/Serious Injury Incidents

1. Supervisors shall respond to firearm discharge and serious injury/death incidents under their jurisdiction and assume command.
2. Instruct Members involved in the incident to deactivate their BWCs after interaction with the subject(s) and Police Action have concluded or the event has stabilized.
3. Collect and secure all BWCs from Members involved in the incident and document their names and serial numbers of their BWC.
4. Provide all BWCs requested by the Office of Internal Governance (OIG) and/or other Supervisors investigating the incident.

Note: These do not supersede or negate any other Supervisor responsibilities as outlined in Section 10-02 “Reporting Use of Force.”

O. Chief of Administrative Services Bureau

1. The Chief of Administrative Services Bureau or his/her designee will conduct random audits to ensure proper procedures are followed in the uploading, review, release, and retention of BWC data.
2. The Chief of Administrative Services Bureau or his/her designee will conduct periodic reviews of retained video data to ensure that the equipment is functioning properly and has not been tampered with.
3. Audits and/or periodic reviews are not intended for the purpose of discovering violations of the Department Manuals.
4. All audits and/or periodic reviews shall be documented with the following:
 - a. Name of the Supervisor conducting the audit or review
 - b. Name of the Member being audited or reviewed
 - c. Date and time of the audit and review
 - d. Serial number of the BWC
 - e. Reason of the audit or review

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5. All BWC recording reviews shall be random unless pursuant to an administrative investigation.

P. Office of Policy, Standards, Evaluation, and Compliance (OPSEC)



1. Conduct an annual review of the policies and procedures of the BWC and make recommendations for any necessary amendments to the Chief of administrative Services Bureau

Q. Storage and Retention

1. BWC recordings shall be maintained in the DEMS unless directed by the Chief of Administrative Services Bureau or his/her designee to store specific recordings in another authorized location.
2. The retention schedule must comply with the minimum standards required by the New York State Archives. The following are the minimum requirements:
 - a. Evidentiary BWC recordings shall be retained for three (3) years.
 - b. Non-evidentiary BWC recordings will be retained for six (6) months.
 - c. For Juveniles – BWC recordings that have administrative or potential legal use shall be retained until the juvenile turns twenty-one (21) years of age.
3. Any BWC recordings determined to have value in long-term investigative, administrative, or civil proceedings shall be appraised by the Chief of Administrative Services Bureau for archiving in accordance with Section 8-06 – Records Management.
4. If recording is deemed to be useful as a training tool, the recording may be kept for as long as practicable.

R. Integrated Communications Unit and Training Responsibilities

1. Members issued with BWCs must complete the initial training program to ensure proper use and operation.
2. Initial training will be provided to all newly hired Members.

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3. Periodic refresher training will be provided as required to ensure the continued effective use and operation of the equipment, proper calibration, and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
4. Conduct a refresher training on Members who are out of service for a period of more than one (1) year (e.g., military leave, paternity leave, sick leave, etc.).

S. Axon Respond



1. The Axon Respond provides a feature that can live video stream an activated BWC of any Member present in the incident. The access to this feature is restricted to Emergency Operations Center (EOC) Sworn Supervisors, Integrated communications Unit (ICU, Training Unit, and Command Staff. Members requesting access to this feature will be granted on a case-by-case basis by the Chief of Police or his/her designee.

Note: The Axon Respond feature will record the Member's name who activated by any BWCs for live video streaming including the date and time.

2. The Axon Respond live video stream feature may be activated by authorized Members during emergency incidents that need to be closely monitored to which include:
 - a. 10-85 – Request Additional Unit
 - b. 10-13 – Assist Police Officer Emergency
 - c. 10-18 – Pursuit Vehicle/Foot
 - d. Incidents involving the use of any weapon.
 - e. Critical incidents
 - f. Train accidents that are catastrophic in nature (e.g., fatalities, multiple train derailments, severe property damage, multiple people injured, etc.).
 - g. Members not responding to EOC status checks over the portable radio during an emergency incident.

Note: Absent of exigent circumstances, authorized Members shall activate the live video stream in a confidential manner and can only be viewed by other Sworn Members. In addition, authorized Members shall notify the Emergency Operations Center of the activation.

3. The Chief of Police or his/her designee may activate the Axon Respond live video stream feature at any time during emergency incidents and permit other emergency response personnel to view the live video stream in order to assess the situation.

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The objective of using this feature is to assist the Command Staff, Supervisors, and other emergency personnel in making prompt crucial decisions such as but not limited to:

- a. Sending additional police units, medical team, railroad personnel, HAZMAT team, equipment, etc., to the location
- b. Warning Members on scene of the potential hazards
- c. Shutting down power and other facilities at the location
- d. Requesting mutual aid from other law enforcement agencies
- e. Informing other government agencies of the condition of the incident

Note: When practicable, include the names and agencies of the emergency response personnel who viewed the live stream video in the Department Incident Report.

4. Members who activated the Axon Respond live video stream, other than to monitor emergency incidents, shall notify Emergency Operations Center (EOC) of the activation and prepare a Memorandum (Form 17) addressed to the Chief of Police to explain the reason for the activation.
5. The Integrated Communications Unit (ICU) shall prepare a quarterly report on activated live video stream. The report shall be available for review by the Chief of Police or his/her designee. Members who would like to request a copy of the report shall prepare a Memorandum (Form 17) addressed to the chief of Police and state the reason for the request.

Related Manual Sections:

- Section 15-04–Critical Incidents – Emergency Action*
- Section 14-03–Crime Scene, Physical Evidence and Property Vouchering*
- Section 15-01 –Train Accidents*
- Section 11-05–Strip and Body Cavity Searches*
- Section 11-04–Arrests*
- Section 10-02–Reporting Use of Force*
- Section 08-06–Records Management*
- Section 06-11–Civilian Complaints*
- Section 02-01–Rules of Conduct*